IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.10671 OF 2004

Dindayal Anandrao Patil, .. Petitioner (Orig.Deft-1)

Vs

1.Shamsundar Jaykisa Banq and anr .. Respondents.

Mr N.J.Patil, for the petitioner.
Mr A.P.Kulkarni, for respondent nos 1 and 2.

CORAM : D.B.BHOSALE,J.
DATE : 18.10.2006

PC:

1. Heard the learned counsel for the parties.

2. The petitioner, in this petition under Article 227 of the Constitution of India, has impugned the orders dated 11.08.2004 and 5.11.2004, passed on the application at Exhibit - 73 and on the application under section 114 and Order 47 of CPC, seeking review of the order dated 11.8.2004 respectively. Both the applications at Exhibit 73 and the review application have been rejected by the court below. By the application at Exhibit-73, the petitioner had prayed for condonation of about one and half years delay in filing written statement. The only ground mentioned in the application was that some important documents were not available and hence the written statement could not be filed within time. That application was rejected by order dated 11.8.2004. In

view of the law settled by this court in Shaileja A. Sawant Vs Sayajirao Ganpatrao Patil, 2004(2) Mh.L.J.419 and thereafter by the Division Bench in Chintaman Sukhdeo Kaklij and ors Vs. Shivaji Bhausaheb Gadhe and ors, 2004 (5) Bom.C.R. 573, the petitioner filed the review application on 8.9.2004. I perused the application at Exhibit-73 as also the review application. It appears that the suit was filed some time in 2002 and on 12.9.2002 the petitioner appeared in the suit. Till 28.1.2004 he did not file a written statement and on that date filed the application at Exhibit-73. The only ground mentioned, as stated earlier, was that some important documents, which were required for preparing a written statement, were not available and hence the written statement could not be filed. I perused the written statement which is placed on record. It does not make reference to any of the documents which were required by the petitioner for preparing a written statement. As a matter of fact, the written statement is only in the form of denial which the petitioner could have filed immediately after appearing in the suit and should not have waited for more than one year for filing the application at Exhibit-73. The suit filed by the respondents -plaintiffs is for eviction on the ground of bonafide

requirement of the suit premises. The very purpose of filing the suit for eviction on the ground of bonafide requirement will stand frustrated if indulgence to such a litigant is shown. The ground mentioned in the application at Exhibit 73 was false. No document of whatsoever nature, was required for preparing the written statement. The only submission advanced by Mr. Patil, learned counsel for the petitioner, that the indulgence be shown to the petitioner on payment of costs can not be accepted in the facts of the present case. The Court below after relying upon the observations made by the Division Bench in Chintaman Sukhdeo Kaklij's case (supra) has rightly rejected the review application for the reasons stated therein. The order does not suffer from any infirmity warranting interference by this Court under Article 227 of the Constitution of India. The writ petition is dismissed.

(D.B.BHOSALE,J.)